

described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it proposes approval of a state rule implementing a Federal Standard.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant regulatory action," this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with

applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTAA do not apply.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Dated: March 7, 2008.

Bharat Mathur,

Acting Regional Administrator, Region 5.
[FR Doc. E8-5053 Filed 3-13-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[EPA-R02-OAR-2007-0553; FRL-8542-4]

Outer Continental Shelf Air Regulations Update To Include New York State Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (OCS) Air Regulations. Requirements applying to OCS sources located within 25 miles of States' seaward boundaries must be promulgated into part 55 and updated periodically to remain consistent with the requirements of the corresponding onshore area (COA), as mandated by section 328(a)(1) of the Clean Air Act (CAA). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources in the State of New York. The intended effect of approving the OCS requirements for the State of New York is to regulate emissions from OCS sources in accordance with the requirements onshore. The requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Written comments must be received on or before April 14, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R02-OAR-2007-0553, by one of the following methods:

A. Federal eRulemaking Portal:
http://www.regulations.gov: Follow the on-line instructions for submitting comments;

B. E-Mail: *riva.steven@epa.gov;*

C. Mail: Steven Riva, U.S.

Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, New York, NY 10007;

D. Hand Delivery: U.S. Environmental Protection Agency Region 2, Attn: Steven Riva, 290 Broadway, New York, NY 10007, 25th Floor. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R02-OAR-2007-0553. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007.

FOR FURTHER INFORMATION CONTACT: Steven Riva, Air Programs Branch, U.S. Environmental Protection Agency, Region 2, 290 Broadway, New York, New York 10007; telephone number: (212) 637-4074; e-mail address: riva.steven@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Background Information

Why Is EPA Taking This Action?

On September 4, 1992, EPA promulgated 40 CFR part 55,¹ which established requirements to control air pollution from OCS sources in order to attain and maintain Federal and State ambient air quality standards (AAQS) and to comply with the provisions of part C of title I of the CAA. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude.

Section 328(a) of the CAA requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of States' seaward boundaries that are the same as

onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable rules in effect for onshore sources into part 55. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the CAA. Inclusion in the OCS rule does not imply that a rule meets the requirements of the CAA for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

What Criteria Were Used To Evaluate Rules Submitted To Be Incorporated Into 40 CFR Part 55?

EPA reviewed the rules that New York submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of Federal or State AAQS or part C of title I of the CAA and that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12(e). In addition, EPA has excluded New York's administrative or procedural rules,² and requirements that regulate toxics that are not related to the attainment and maintenance of Federal and State AAQS.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct

a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant economic impact on a substantial number of small entities. This rule implements requirements specifically and explicitly set forth by the Congress in section 328 of the CAA, without the exercise of any policy discretion by EPA. These OCS rules already apply in the COA, and EPA has no evidence to suggest that these OCS rules have had a significant economic impact on a substantial number of small entities. As required by section 328 of the CAA, this action simply incorporates the existing rules in the COA. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, and tribal governments in the aggregate; or to the private sector, of \$100 million or more in any one year. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that today's proposed rule contains no Federal mandates that may result in expenditures of \$100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any one year. This action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132: Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental

¹ The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

² Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, as in New York, EPA will use its own administrative and procedural requirements to implement the substantive requirements. See 40 CFR 55.14(c)(4).

Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that have “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175: Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885 (April 23, 1997)), applies to any rule that: (1) Is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use voluntary consensus standards (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable laws or otherwise impractical.

The EPA believes that VCS are inapplicable to this section. Today’s action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen

dioxide, Nitrogen oxides, Outer Continental Shelf, Ozone, Particulate matter, Permits, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: February 29, 2008.

Alan Steinberg,

Regional Administrator, Region 2.

Title 40, chapter I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the CAA (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is amended by adding paragraphs (d)(16) and (e)(16) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States’ seaward boundaries, by State.

* * * * *

(d) * * *

(16) New York.

(i) 40 CFR part 52, subpart HH.

(ii) [Reserved].

* * * * *

(e) * * *

(16) New York.

(i) State Requirements.

(A) State of New York Requirements Applicable to OCS Sources, October 20, 2007.

(B) [Reserved].

(ii) Local requirements.

(A) [Reserved].

3. Appendix A to Part 55 is amended by adding an entry for New York in alphabetical order to read as follows:

Appendix A to Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

New York

(a) State requirements.

(1) The following State of New York requirements are applicable to OCS Sources, October 20, 2007. New York Environmental Conservation Law—Department of Environmental Conservation. The following sections of Title 6, Chapter III:

Part 200. General Provisions

6 NYCRR 200.1. Definitions (effective 8/9/06)

6 NYCRR 200.2. Safeguarding Information (effective 1/16/92)

6 NYCRR 200.3. False Statement (effective 6/16/72)

6 NYCRR 200.4. Severability (effective 8/9/84)

6 NYCRR 200.5. Sealing (effective 2/22/79)

6 NYCRR 200.6. Acceptable Ambient Air Quality (effective 4/6/83)

6 NYCRR 200.7. Maintenance of Equipment (effective 2/22/79)

- 6 NYCRR 200.8. Conflict of Interest (effective 1/12/75)
- 6 NYCRR 200.9. Referenced Material (effective 1/27/07)
- 6 NYCRR 200.10. Federal Standards and Requirements (effective 10/20/07)

Part 201. Permits and Certificates

- 6 NYCRR 201–1. General Provisions (effective 7/7/96)
- 6 NYCRR 201–2. Definitions (effective 11/21/98)
- 6 NYCRR 201–3. Exemptions and Trivial Activities (effective 5/7/03)
- 6 NYCRR 201–4. Minor Facility Registrations (effective 7/7/96)
- 6 NYCRR 201–5. State Facility Permits (effective 7/7/96)
- 6 NYCRR 201–6. Title V Facility Permits (effective 1/18/02)
- 6 NYCRR 201–7. Federally Enforceable Emission Caps (effective 7/7/96)
- 6 NYCRR 201–8. General Permits (effective 7/7/96)

Part 202. Emissions Verification

- 6 NYCRR 202–1. Emissions Testing, Sampling and Analytical Determinations (effective 5/29/05)
- 6 NYCRR 202–2. Emission Statements (effective 5/29/05)

Part 204. NO_x Budget Trading Program

- 6 NYCRR 204–1. General Provisions (effective 2/25/00)
- 6 NYCRR 204–2. Authorized Account Representative for NO_x Budget Sources (effective 2/25/00)
- 6 NYCRR 204–3. Permits (effective 2/25/00)
- 6 NYCRR 204–4. Compliance Certification (effective 2/25/00)
- 6 NYCRR 204–5. Allowance Allocations (effective 2/25/00)
- 6 NYCRR 204–6. Allowance Tracking System (effective 2/25/00)
- 6 NYCRR 204–7. NO_x Allowance Transfers (effective 2/25/00)
- 6 NYCRR 204–8. Monitoring and Reporting (effective 2/25/00)
- 6 NYCRR 204–9. Individual Unit Opt-ins (effective 2/25/00)

Part 207—Control Measures for Air Pollution Episode (Effective 2/22/79)

Part 210—Emissions and Labeling Requirements for Personal Watercraft Engines

- 6 NYCRR 210–1. Applicability and Definitions (effective 8/8/03)
- 6 NYCRR 210–2. Certification and Prohibitions (effective 8/8/03)
- 6 NYCRR 210–3. Family Emission Limits (effective 8/8/03)
- 6 NYCRR 210–4. In-Use Testing and Recall (effective 8/8/03)
- 6 NYCRR 210–5. Warranty (effective 8/8/03)
- 6 NYCRR 210–6. Production-Line Testing (effective 8/8/03)
- 6 NYCRR 210–7. Severability (effective 8/8/03)

Part 211—General Prohibitions (Effective 8/11/83)

Part 212—General Process Emission Sources (Effective 9/22/94)

Part 215—Open Fires (Effective 6/16/72)

Part 219—Incinerators

- 6 NYCRR 219–1. Incineration—General Provisions (effective 10/30/02)
- 6 NYCRR 219–2. Municipal and Private Solid Waste Incineration Facilities (effective 5/21/05)
- 6 NYCRR 219–3. Infectious Waste Incineration Facilities (effective 12/31/88)
- 6 NYCRR 219–5. Existing Incinerators (effective 12/31/88)
- 6 NYCRR 219–6. Existing Incinerators—New York City, Nassau and Westchester Counties (effective 12/31/88)
- 6 NYCRR 219–7. Mercury Emission Limitations for Large Municipal Waste Combustors Constructed On or Before September 20, 1994 (effective 5/21/05)
- 6 NYCRR 219–8. Emission Guidelines and Compliance Times for Small Municipal Waste Combustion Units Constructed On or Before August 30, 1999 (effective 10/18/02)

Part 225—Fuel Consumption and Use

- 6 NYCRR 225–1. Fuel Composition and Use—Sulfur Limitations (effective 1/29/86)
- 6 NYCRR 225–2. Fuel Composition and Use—Waste Fuel (effective 11/5/84)
- 6 NYCRR 225–3. Fuel Composition and Use—Gasoline (effective 11/4/01)
- 6 NYCRR 225–4. Motor Vehicle Diesel Fuel (effective 5/8/05)

Part 226—Solvent Metal Cleaning Processes (Effective 5/7/03)

Part 227—Stationary Combustion Installations

- 6 NYCRR 227–1. Stationary Combustion Installations (effective 2/25/00)
- 6 NYCRR 227–2. Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO_x) (effective 2/11/04)
- 6 NYCRR 227–3. Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program (effective 3/15/99)

Part 228—Surface Coating Processes (Effective 7/23/03)

Part 229—Petroleum and Volatile Organic Liquid Storage and Transfer (Effective 4/4/93)

Part 231—New Source Review in Nonattainment Areas and Ozone Transport Region

- 6 NYCRR 231–1. Requirements for Emission Sources Subject to the Regulation Prior to November 15, 1992 (effective 10/15/94)
- 6 NYCRR 231–2. Requirements for Emission Sources Subject to the Regulation On or After November 15, 1992 (effective 5/3/00)

Part 240—Conformity to State or Federal Implementation Plans (Effective 10/22/04)

Part 243—CAIR NO_x Ozone Season Trading Program

- 6 NYCRR 243–1. CAIR NO_x Ozone Season Trading Program General Provisions (effective 10/19/07)

- 6 NYCRR 243–2. CAIR Designated Representative for CAIR NO_x Ozone Season Sources (effective 10/19/07)
- 6 NYCRR 243–3. Permits (effective 10/19/07)
- 6 NYCRR 243–5. CAIR NO_x Ozone Season Allowance Allocations (effective 10/19/07)
- 6 NYCRR 243–6. CAIR NO_x Ozone Season Allowance Tracking System (effective 10/19/07)
- 6 NYCRR 243–7. CAIR NO_x Ozone Season Allowance Transfers (effective 10/19/07)
- 6 NYCRR 243–8. Monitoring and Reporting (effective 10/19/07)
- 6 NYCRR 243–9. CAIR NO_x Ozone Season Opt-in Units (effective 10/19/07)

Part 244—CAIR NO_x Annual Trading Program

- 6 NYCRR 244–1. CAIR NO_x Annual Trading Program General Provisions (effective 10/19/07)
- 6 NYCRR 244–2. CAIR Designated Representative for CAIR NO_x Sources (effective 10/19/07)
- 6 NYCRR 244–3. Permits (effective 10/19/07)
- 6 NYCRR 244–5. CAIR NO_x Allowance Allocations (effective 10/19/07)
- 6 NYCRR 244–6. CAIR NO_x Allowance Tracking System (effective 10/19/07)
- 6 NYCRR 244–7. CAIR NO_x Allowance Transfers (effective 10/19/07)
- 6 NYCRR 244–8. Monitoring and Reporting (effective 10/19/07)
- 6 NYCRR 244–9. CAIR NO_x Opt-in Units (effective 10/19/07)

Part 245—CAIR SO₂ Trading Program

- 6 NYCRR 245–1. CAIR SO₂ Trading Program General Provisions (effective 10/19/07)
- 6 NYCRR 245–2. CAIR Designated Representative for CAIR SO₂ Sources (effective 10/19/07)
- 6 NYCRR 245–3. Permits (effective 10/19/07)
- 6 NYCRR 245–6. CAIR SO₂ Allowance Tracking System (effective 10/19/07)
- 6 NYCRR 245–7. CAIR SO₂ Allowance Transfers (effective 10/19/07)
- 6 NYCRR 245–8. Monitoring and Reporting (effective 10/19/07)
- 6 NYCRR 245–9. CAIR SO₂ Opt-in Units (effective 10/19/07)

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[FR Doc. 08–1020 Filed 3–13–08; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2008–0015]

RIN 2127–AG51

Federal Motor Vehicle Safety Standards; Roof Crush Resistance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Proposed rule; extension of comment period.